

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DEBORAH L. SINGER, TRUSTEE)	
UNDER TED SINGER DECLARATION)	
of TRUST DATED SEPTEMBER 1, 2011,)	
Plaintiff,)	
v.)	No. 17 C 3746
MASSACHUSETTS MUTUAL LIFE)	
INSURANCE CO., a mutual life insurance)	
company d/b/a MASS MUTUAL)	
FINANCIAL GROUP INSURANCE)	The Honorable John J. Tharp, Jr.
COMPANY,)	Judge Presiding
Defendant -Counter-Plaintiff,)	

PLAINTIFF DEBORAH SINGER, TRUSTEE’S MOTION TO ENTER JUDGMENT IN FAVOR OF PLAINTIFF DEBORAH SINGER, TRUSTEE AND AGAINST MASSACHUSETTS MUTUAL LIFE INSURANCE CO. AND AGAINST ROCHELLE SINGER AND FOR AN ORDER REQUIRING MASSACHUSETTS MUTUAL LIFE INSURANCE CO. TO TENDER THE PROCEEDS OF ITS IRA TO PLAINTIFF DEBORAH SINGER, TRUSTEE, INSTANTER

Now comes Plaintiff Deborah Singer, Trustee of the Ted Singer Trust dated September 1, 2011, and moves this Honorable Court, pursuant to Fed.R.Civ.P. Rule 12(c) to enter judgment in favor of Plaintiff Deborah Singer, Trustee and against MASSACHUSETTS MUTUAL LIFE INSURANCE CO. and against ROCHELLE SINGER and for an order requiring Defendant MASSACHUSETTS MUTUAL LIFE INSURANCE CO. (“MassMutual”) to tender the proceeds of its IRA to Plaintiff Deborah Singer, Trustee, *instante*, and states:

On August 15, 2018, this Court dismissed Rochelle Singer’s counterclaim against her daughter Plaintiff Deborah Singer, Trustee and also dismissed Rochelle Singer’s third-party complaint against daughter Hope Nolan. (R.84). *See Singer v. MassMutual Life Insurance Co.*, 17 C 3746, 2018 U.S. Dist. Lexis 137933 (J. Tharp, N.D. Ill., August 15, 2018). Therefore, Rochelle Singer has no viable claim against MassMutual for the proceeds of its IRA, as Rochelle Singer’s affirmative defenses in her answer to MassMutual’s interpleader are identical to the

allegations contained in her dismissed counterclaim and third party complaint against her daughters Deborah Singer and Hope Nolan. Accordingly, Rochelle Singer's illegitimate claim to the MassMutual IRA is issue precluded by the dismissal of her two complaints against her daughters Deborah and Hope. *See Messenger v. Anderson*, 225 U.S. 436, 444 (1912); *Williams v. Commissioner*, 1 F.3d 502, 503 (7th Cir. 1993)(law of the case requires Rochelle Singer's identical insufficient allegations to be issue precluded).

As such, the Court must order MassMutual to tender the entire IRA to Plaintiff, Deborah Singer, Trustee, *instanter*. *See Williams v. Commissioner, supra*.

Wherefore, plaintiff Deborah Singer, Trustee, moves this Honorable Court to:

- A. Enter a judgment in favor of Plaintiff Deborah L. Singer, Trustee under the Ted Singer Declaration of Trust, dated September 1, 2011 and against the Defendant, MASSACHUSETTS MUTUAL LIFE INSURANCE CO., a mutual life insurance company d/b/a MASS MUTUAL FINANCIAL GROUP and against Rochelle Singer, jointly and severally;
- B. Order MassMutual to tender the entire proceeds of its IRA to Plaintiff, Deborah Singer, Trustee under the Ted Singer Declaration of Trust dated September 1, 2011, *instanter*;
- C. Award Plaintiff Deborah L. Singer, Trustee under the Ted Singer Declaration of Trust, dated September 1, 2011 damages in excess of \$1,600,000.00;
- D. Award Plaintiff Deborah Singer Trustee all attorney's fees and costs incurred pursuant to 215 ILCS 5/155(1) due to Defendant MassMutual's vexatious and unreasonable conduct in denying Plaintiff Deborah Singer Trustee's claim to be determined by the Court and assessed against MassMutual;
- E. Award Plaintiff Deborah Singer, Trustee, punitive damages pursuant to 215 ILCS 5/155(1)(a)-(c) for Defendant MassMutual's vexatious and unreasonable conduct in denying Plaintiff's claim and assessed against MassMutual;

F. Enter additional orders in favor of Plaintiff which are equitable.

Respectfully submitted,
DEBORAH L. SINGER, Trustee, Plaintiff

Dated: October 16, 2018

By: S/Edward R. Theobald
Edward R. Theobald, her attorney

Attorneys for Plaintiff Deborah Singer, Trustee

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court for the Northern District of Illinois by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system, except for John Curielli, Jerry Crotty, and Chris Wojcicki who were served via email on 10/16/18.

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